

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket
DECLAN PATRICK KELLY ET AL.	NL 021037
	Confirmation No. 4934
Serial No. 10/530,382	Group Art Unit: 2457
Filed: APRIL 6, 2005	Examiner: MCLEOD, M.M.
Title: METHOD OF ENHANCING MULTIMEDIA	

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on October 23, 2008:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1 and 3-5 are pending in this application, where claim 2 had been canceled. Claims 1 and 3-5 are rejected in the Final Office Action mailed in July 24, 2008. This rejection was upheld, in the Advisory Action that was mailed on October 15, 2008. Claims 1 and 3-5 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on September 24, 2008 an after final amendment in response to a Final Office Action mailed July 24, 2008. The after final amendment did not include any amendments. In an Advisory Action mailed on October 15, 2008, it is indicated that the after final amendment filed on September 24, 2008 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed July 24, 2008, that finally rejected claims 1 and 3-5, which remain finally rejected in the Advisory Action mailed on October 15, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a method of enhancing multimedia data 24 contained on an information carrier 23 that also contains additional carrier data 25, as shown in FIG 1, and described on page 3, lines 15-18. As described on page 5, lines 4-23, the method comprises reading a user file 22, such as a cookie file, containing user data defining previous actions of a user, in a storage unit 21 of a recording and/or reproducing device 20; and providing, in an off-line session, the additional carrier data 25 as a function of the user data.

As described on page 5, lines 24-30, the method further includes updating the user data to reflect a latest off-line action of the user; providing, in an on-line session, additional remote data from a remote unit 10 as a function of the user data, the remote unit 10 being connected to the recording and/or reproducing device 20 via a network; and updating the user data to reflect a latest on-line action of the user so that a viewing experience of

the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data 25 are coming from the information carrier 23 or when the additional remote data 25 are coming from the remote unit 10.

The present invention, for example, as recited in independent claim 3, is directed to an information carrier 23 comprising multimedia data 24 and additional carrier data 25 for enhancing the multimedia data 24, as shown in FIG 1, and described on page 3, lines 15-18. The information carrier 23 further comprises means for reading a user file 22, such as an Application Program Interface (API) or script, as described on page 4, lines 4-32, and page 5, lines 4-23, containing user data defining previous actions of a user, in a storage unit 21 of a recording and/or reproducing device 20; means such as another API or script for providing, in an off-line session, the carrier additional data as a function of the previous actions of the user; and means such as another API or script for providing, in an on-line session, additional remote data from a remote unit 10 as a function of the previous actions of the

user.

As described on page 5, lines 24-30, the information carrier 23 further comprises means, such as another API or script, for updating the user data in the user file 22 as a function of latest actions the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data 25 are coming from the information carrier 23 or when the additional remote data 25 are coming from the remote unit 10.

The present invention, for example, as recited in independent claim 4, is directed to a recording and/or reproducing device 20 adapted to read an information carrier 23 containing multimedia data 24 and additional carrier data 25 for enhancing the multimedia data 24, as shown in FIG 1, and described on page 3, lines 15-18. The device 20 comprises means for reading a user file 22 such as an Application Program Interface (API) or script, as described on page 4, lines 4-32, and page 5, lines 4-23, where the user file 22 contains user data defining previous actions of a user, in a storage unit 21 of the recording and/or reproducing device 20;

means such as another API or script for providing, in an off-line session, the additional carrier data 25 as a function of the previous actions of the user; and means such as another API or for providing, in an on-line session, additional remote data from a remote unit 10 as a function of the previous actions of the user.

As described on page 5, lines 24-30, the recording and/or reproducing device 20 further includes means, such as another API or script, for updating the user data in the user file 22 as a function of latest actions the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data 25 are coming from the information carrier 23 or when the additional remote data 25 are coming from the remote unit 10.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 and 3-5 of U.S. Patent Application Serial No. 10/530,382 are anticipated under 35 U.S.C. §102(b) by U.S. Patent Application Publication No. 2002/0078144 (Lamkin).

ARGUMENT

Claims 1 and 3-5 are said to be anticipated by Lamkin.

Appellants respectfully request the Board to address the patentability of independent claims 1 and 3-4, and further claim 5 as depending from independent claim 1, based on the requirements of independent claim 1. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claim 5 at a later date should the separately patentable subject matter of claim 5 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claim 1 is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

Lamkin is directed to presentation of media content from multiple media. Lamkin discloses an embedded browser that supports

two types of cookies, namely system cookies and general-purpose cookies. As recited in paragraphs [0095], [0099] and [0103], a movie (provided on the DVD) and text/graphics (i.e., HTML content from the Internet) are synchronized together and displayed concurrently.

It is respectfully submitted that, the present invention as recited in independent claim 1, and similarly recited in independent claims 3-4, amongst other patentable elements, recites (illustrative emphasis provided):

providing, in an off-line session, the additional carrier data as a function of the user data, updating the user data to reflect a latest off-line action of the user,

providing, in an on-line session, additional remote data from a remote unit as a function of the user data, the remote unit being connected to the recording and/or reproducing device via a network, and updating the user data to reflect a latest on-line action of the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data are coming from the information carrier or when the additional remote data are coming from the remote unit.

Updating the very same user data to reflect both the latest

and off-line and on-line user actions so that a viewing experience of the user is consistent during both off-line and on-line sessions, and same customization features are provided when the additional carrier data are coming from the information carrier or from the remote unit are nowhere disclosed or suggested in Lamkin.

Rather, Lamkin merely discloses to have two types of cookies or to synchronize HTML text/graphics with DVD-video for concurrent display of both the HTML and video contents. Lamkin is completely silent about any updating of the very same cookie to reflect both off-line and on-line user actions, let alone doing so to provide a consistent viewing experience during both off-line and on-line sessions, with same customization features when the additional carrier data are coming from the information carrier or from the remote unit. Lamkin is not even concerned with any viewing experience during both off-line and on-line sessions. Rather, Lamkin is merely concerned with synchronizing and displaying together a movie (from a DVD) and HTML content (from the Internet).

Paragraph [0186] of Lamkin is cited in the Advisory Action to allegedly show "how a user can interact with both online and

offline content at the same time." It is respectfully submitted that paragraph [0186] specifically recites:

A user has two views between which he or she can switch, one being from the world wide web (WWW) and the other being from the disk content. Users accessing a display device (102) by remote control has, in one embodiment, access to both views (or "worlds") at any time through the "view" button. Additionally, in one embodiment, a graphics subsystem can support this by having two graphic "planes," one for each view. By having a separate disk content view, the content owner can control the presentation of information (scripts, pictures, videos, etc.). This aids in merchandising of the content. (Emphasis added)

Paragraph [0186] of Lamkin merely recites the user has access to two views. This in no way discloses or suggests that updating the user data to reflect a latest on-line action of the user so that a viewing experience of the user is consistent during both off-line and on-line sessions, and same customization features are provided when the additional carrier data are coming from the information carrier or when the additional remote data are coming from the remote unit, as recited in independent claims 1 and 3-4. Further, synchronization as disclosed in Lamkin is merely related to having the same data, files or information, and has nothing to

do with having the same customization feature.

Accordingly, it is respectfully submitted that independent claims 1 and 3-4 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claim 5 should also be allowed at least based on their dependence from amended independent claim 1.


In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1 and 3-5 are patentable over Lamkin.

Thus, the Examiner's rejections of claims 1 and 3-5 should be reversed.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Appellants
December 22, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

CLAIMS APPENDIX

1. (Previously Presented) A method of enhancing multimedia data contained on an information carrier, said information carrier also containing additional carrier data, said method comprising the following acts:

reading a user file containing user data defining previous actions of a user, in a storage unit of a recording and/or reproducing device,

providing, in an off-line session, the additional carrier data as a function of the user data,

updating the user data to reflect a latest off-line action of the user,

providing, in an on-line session, additional remote data from a remote unit as a function of the user data, the remote unit being connected to the recording and/or reproducing device via a network, and

updating the user data to reflect a latest on-line action of

the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data are coming from the information carrier or when the additional remote data are coming from the remote unit.

Claim 2 (Canceled)

3. (Previously Presented) An information carrier comprising multimedia data and additional carrier data for enhancing the multimedia data, said information carrier further comprising:

means for reading a user file containing user data defining previous actions of a user, in a storage unit of a recording and/or reproducing device,

means for providing, in an off-line session, the carrier additional data as a function of the previous actions of the user,

means for providing, in an on-line session, additional remote data from a remote unit as a function of the previous actions of the user, and

means for updating the user data in the user file as a function of latest actions the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data are coming from the information carrier or when the additional remote data are coming from the remote unit.

4. (Previously Presented) A recording and/or reproducing device adapted to read an information carrier containing multimedia data and additional carrier data for enhancing the multimedia data, said device comprising:

means for reading a user file containing user data defining previous actions of a user, in a storage unit of the recording and/or reproducing device,

means for providing, in an off-line session, the additional carrier data as a function of the previous actions of the user,

means for providing, in an on-line session, additional remote data from a remote unit as a function of the previous actions of the user, and

means for updating the user data in the user file as a function of latest actions the user so that a viewing experience of the user is consistent during both the off-line session and the on-line session and same customization features are provided when the additional carrier data are coming from the information carrier or when the additional remote data are coming from the remote unit.

5. (Previously Presented) A computer program stored on a computer readable medium, the computer program comprising program instructions for implementing the method of enhancing multimedia data as claimed in claim 1, when said program is executed by a processor.

EVIDENCE APPENDIX

None

Patent
Serial No. 10/530,382
Appeal Brief in Reply to Final Office Action of July 24, 2008,
and Advisory Action of October 15, 2008

RELATED PROCEEDINGS APPENDIX

None